

E-FILED on 4/28/06

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FAMILY MORTGAGE CORPORATION
NO. 15,

Plaintiff,

v.

PERRY L. GREINER,

Defendant.


No. C-03-01380 RMW

ORDER TO SHOW CAUSE

Defendant Perry L. Greiner and his attorneys Stanford H. Atwood, Jr., and Eric S. Haiman are ordered to show cause by May 5, 2006 why they should not be sanctioned under Fed.R.Civ.P. 11(b). Greiner's claims that he did not intend to enter into the settlement agreement in October 2004 appear to be made in bad faith, in violation of Fed.R.Civ.P. 11(b)(1) and (3). His legal argument that his intent in signing the settlement agreement is relevant appears unwarranted under California law, *see, e.g., Beard v. Goodrich*, 110 Cal. App. 4th 1031, 1038 (2003) ("Contract formation is governed by objective manifestations, not the subjective intent of any individual involved. . . . The test is what the outward manifestations of consent would lead a reasonable person to believe.")

1 (internal quotation marks omitted), and thus appears to constitute a violation of Fed.R.Civ.P.
2 11(b)(2) by his attorneys. The hearing on this order shall held at 9 a.m. on May 12, 2006.

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5 DATED: 4/28/06



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been electronically sent to:**

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7 Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program.

8 **A copy will also be mailed to:**

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14 **Dated:** 4/28/06 /s/ JH
15 **Chambers of Judge Whyte**
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